

Via Federal Express

Thomas C. Nash, Esquire Associate Regional Counsel U.S. Environmental Protection Agency-Region 5 77 West Jackson Boulevard Chicago, IL 60604-3590



Re: Chemical Recovery Systems

Dear Tom:

In accordance with our recent e-mails, I have enclosed copies of the following documents:

- 1) Letter dated March 12, 2001, from Elyria Foundry to U.S. Environmental Protection Agency, responding to your 104 (e) request of March 2, 2001;
- 2) Agreement between Ethan Foundries Company, as Buyers, and Chromalloy American Corporation and Elyria Foundry Company, dated August 1, 1983 regarding purchase of certain assets (relevant pages only-please note page 26-Section 9.01©);
- 3) Articles of Incorporation of Ethan Foundries Company, and Certificates of Ohio Secretary of State, dated July 26, 1983; and
- 4) Certificate of Ohio Secretary of State dated December 8, 1988, regarding change of corporate name of Ethan Foundries Company to Elyria Foundry Company.

Please call me after you have reviewed these documents.

Very Truly Yours,

Samuel R. Knezevic

**Executive Vice President and General Counsel** 



March 12, 2001

#### CERTIFIED MAIL, RETURN RECEIPT REQUESTED

U. S. Environmental Protection Agency Deena Sheppard-Johnson, SR-6J Remedial Enforcement Support Section 77 West Jackson Blvd. Chicago, Illinois 60604

Re: Chemical Recovery Systems

142 Locust Street, Elyria, Ohio (the "Site")

Dear Sir or Madam:

We are in receipt of your letter of March 2, 2001 concerning the above referenced Site.

During the past several days, we have conducted a detailed search of our files and records, and have made inquiries to our President, Vice President of Operations, and Chief Plant Engineer, as well as our environmental consulting firm and certain suppliers. We have been unable to find any information or documentation to indicate that Elyria Foundry Company ever sent anything to this Site. In addition, Elyria Foundry Company has never owned or operated this Site.

Our records go back to 1983, the year in which Gregg L. Foster bought certain assets of Elyria Foundry Company. He incorporated his business under the name "Ethan Foundries Company" on July 26, 1983. The name was changed to our current name in 1986. The owner of the foundry assets prior to July, 1983 was Chromalloy American Corporation, and according to our records, their address is 120 South Central Avenue, St. Louis, Missouri, 63105.

Since it appears that the events of concern to you occurred prior to Elyria Foundry's existence, perhaps Chromalloy can provide the information you are seeking. As I indicated, we have no information or other reason to believe that Elyria Foundry Company ever disposed of anything at this Site, and we do not expect to discover anything to the contrary in the next thirty days. If your office has any information to the contrary, we request a copy of same. If we do discover any information, we will

U. S. Environmental Protection Agency Page 2

advise you immediately. Otherwise, please consider this to be both our ten-day and thirty-day response as required in your letter.

If you require anything further, please feel free to call me at (440) 322-4657.

We hereby certify that all information contained in this letter is true and accurate to the best of our knowledge and belief.

ELYRIA FOUNDRY COMPANY

Samuel R Knezevic

Executive Vice President and General Counsel

STATE OF OHIO COUNTY OF LORAIN

SWORN TO AND SUBSCRIBED BEFORE ME, a Notary Public in and for said County and State, by Samuel R. Knezevic, Executive Vice President and General Counsel, this L2+h day of March, 2001.

Notary Public

CAROL J. MATLOCK Notary Public. State of Ohio Commission Expires 9-16-2001

matlock

bcc: Ray Zucker, Envisage Gregg Foster John Bynne

## AGREEMENT BETWEEN ETHAN FOUNDRIES COMPANY

and

## CHROMALLOY AMERICAN CORPORATION AND ELYRIA FOUNDRY COMPANY

This Purchase Agreement ("Agreement"), dated effective this widay of week, 1983, by and between CHROMALLOY AMERICAN CORPORATION, a Delaware corporation ("Chromalloy"), ELYRIA FOUNDRY COMPANY ("Elyria"), an Ohio corporation and wholly-owned subsidiary of Chromalloy and successor to Elyria Foundry Division of Chromalloy ("EFD"), and ETHAN FOUNDRIES COMPANY, an Ohio corporation ("Buyer"), and GREGG L. FOSTER, the owner of all of the issued and outstanding capital stock of Buyer ("Shareholder").

#### WITNESSETH

WHEREAS, Buyer, Shareholder, Elyria and Chromalloy desire to enter into this Agreement under the terms of which:

- (1) Chromalloy and Elyria will sell and lease to
  Buyer and Buyer will purchase and lease, as
  the case may be, from Chromalloy and Elyria
  specified assets as provided in this Agreement; and
- (2) Buyer will assume those liabilities and obligations of Elyria and Chromalloy relating

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to the business of Elyria as specified in this Agreement;

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

#### 1. CLOSING

1.01 Closing. The "Closing Date" and/or "Closing" shall be the date set forth above. The transactions scheduled to occur on the Closing Date shall be deemed to have taken place at 5:00 p.m. (EDT). The consummation of the purchase and sale of specified assets and assumption of those liabilities of Elyria and Chromalloy relating to the business of Elyria as specified in this Agreement as well as execution and delivery of the Lease, as hereinafter provided, shall take place on the Closing Date. The events and transactions consummating said purchase and sale are herein sometimes referred to as the "Closing."

#### 2. SALE OF ASSETS

2.01 <u>Subject Matter</u>. Subject to the terms and conditions herein and for the consideration hereinafter stated in Section 3, Chromalloy and Elyria, as the case may be, hereby sell to Buyer and Buyer hereby purchases from Chromalloy and Elyria, as the case may be, certain assets used exclusively in the business of Elyria. For purposes of this Agreement, such assets are hereinafter referred to as "Purchased Assets" and are more fully described herein. Buyer agrees to pay any and all sales, use, recording, stamp or other such local assessments applicable to the sale and





transfer of the Purchased Assets which may be imposed by reason of such sale, transfer, assignment and delivery.

- 2.02. <u>Purchased Assets</u>. Without regard to the generality of the foregoing description of Purchased Assets, said Purchased Assets shall only include:
- (a) the pending and executory contracts, purchase orders, agreements, and commitments of Elyria and Chromalloy pertaining to Elyria;

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- (b) the accounts receivable of Elyria as the same may exist on the Closing Date;
- (c) the inventories (including raw materials, work in process, finished goods and certain supplies) of Elyria as the same may exist on the Closing Date;
- (d) trade secrets, know-how, trade names and logos, if any, of Elyria as the same may exist on the Closing Date;
- (e) product designs, tooling, patterns, dies and jigs if, and to the extent, owned by Elyria on the Closing Date;
- (f) the cash, and cash equivalents, if any, of Elyria as the same may exist on the Closing Date;
- (g) Chromalloy's right, title and interest, if any, in and to the name "Elyria Foundry";
- (h) sales tax refunds of Elyria and Chromalloy that relates to Elyria;
- (i) all rights and claims under contracts, either express or implied, if any, relating in any way to the

Purchased Assets, against third parties, including customers and suppliers of goods or services;

- (j) all other assets of Elyria, if any, whether recorded or unrecorded on the books of Elyria, which are used in any manner in the conduct of Elyria's business; and unless specifically excluded in Section 2.03 below; and
- (k) Elyria's prepaid worker's compensation deposit.
- 2.03 Excluded Assets. Notwithstanding the provisions of Section 2.02 the Purchased Assets shall exclude:
- (a) the rights or interests of Chromalloy and Elyria under this Agreement;
- (b) any right to use the name "Chromalloy" or "Chromalloy American" or any derivation or adaption thereof;
- (c) any rights or interests of Chromalloy under any agreement, contract, lease, license, order or other arrangement or understanding executory in nature at the Closing Date and not pertaining to Elyria;
- (d) all rights incident, directly or indirectly, to all insurance policies, proceeds, loss funds and prepaid insurance accounts relating to Chromalloy and Elyria and except as provided in Section 2.02(i), claims and litigation relating to Chromalloy and Elyria;
- (e) all other businesses, assets and properties of Chromalloy of any kind or nature which are not located at Elyria or a part of Elyria's business;



- (f) those assets leased and subleased to Buyer as provided in Section 4 hereto;
- (g) deferred charges relating to Chromalloy's
  IDBs (see definition below); and
- (h) income and other tax (excluding sales tax) refunds of Elyria and Chromalloy.
- Assets. At the Closing, subject to the terms and conditions set forth in this Agreement, Chromalloy and Elyria shall sell, convey, transfer, assign and deliver to Buyer in accordance with Section 5.02 hereof, Chromalloy's and Elyria's right, title and interest in and to the Purchased Assets by delivering to Buyer a bill of sale of even date assigning to Buyer all property included in the Purchased Assets.

#### 3. CONSIDERATION FOR THE PURCHASED ASSETS

3.01 Consideration for the Purchased Assets. The Purchase price to be paid by Buyer to Chromalloy and Elyria for the Purchased Assets to be sold by Chromalloy and Elyria to Buyer as described in Section 2.02, is Three Hundred Forty-Six Thousand Four Hundred Forty-Nine Dollars (\$346,449.00), and shall be payable by a promissory note of even date delivered herewith plus the assumption of those liabilities set forth in Section 3.02 and provided elsewhere in this Agreement.

Buyer additionally agrees to execute and deliver to Chromalloy an additional promissory note, in the same



either, on all locuments of its business, upon which those names appear, including but not limited to invoices, purchase orders, and stationery, but excluding any trade labels; provided, however, that Buyer may continue to use said business documents, with the name "Chromalloy" or "Chromalloy American" stricken or typed out, only until their current supply is exhausted but in no event beyond September 30, 1983, and, at that time, agrees to purchase or use documents without any reference, whether stricken or not, to "Chromalloy" or "Chromalloy American."

#### 9. INDEMNIFICATION

- 9.01 Chromalloy. Subject to the limitations set forth in Section 9.03, Chromalloy and Elyria shall indemnify and hold Buyer harmless against and in respect of:
- (a) any damages resulting from a misrepresentation, breach of warranty, or non-fulfillment of any agreement on the part of Chromalloy and/or Elyria, not assumed by Buyer under this Agreement;
- (b) any liability of Chromalloy and/or Elyria not assumed by Buyer under this Agreement;
- (c) liability of any nature whatsoever stemming from Chromalloy's and/or Elyria's noncompliance, up to and including the Date of Closing, with any laws relating to environmental matters, pollution control or hazardous waste disposal; and
- (d) all actions, suits, proceedings, demands, assessments, judgments, costs, and expenses (including,



### State of Ohio Department of State

Date 7/23/83

F0292-0934

Sherrod Brown Secretary of State

Receipt No.

6194

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Received of or filed by	CALFEE, HALTE	R & GRISWOLD	·		
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ETHAN FOUNDRIES	COMPANY				
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Name:	• он 44114		Total Fee:	\$	75.00
ETHAN FOUNDRIES	COMPANY				
	V	, <u> </u>			
It is hereby certifi	ied that the Secretary of S	State of Ohio has custody of the Reco	ords of Incorporation and M	Miscellaneous	Filings; that sai
records show the filin	ng and recording of:	ARF			
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ETHAN FOUN	ODRIES COMPANY				

United States of America State of Ohio Office of the Secretary of State Recorded on Roll <u>F 2 92</u> at Frame <u>0 9 3 6</u> of the Records of Incorporation and Miscellaneous Filings.

Witness my hand and the seal of the Secretary of State, at the City of Columbus, Ohio, this 26TH day of JULY,

A.D. 19\_83





**Department of State** 

## The State of Ohio

### **Sherrod Brown**

Secretary of State

617389

# 🍪 Certificate 🍪

It is hereby certified that the Secretary of State of Ohio has custody of the Records of Incorporation and Miscellaneous Filings; that said

		of:			
ETHAN FOUNDRIES COMPANY					
	Recorded on RollF292	at Frame0936of			
United States of America State of Ohio Office of the Secretary of State	the Records of Incorporation and Miscellaneous Filings.				
	•	of the Secretary of State, at the			
SECRETARY	City of Columbus, Ohio, this  A.D. 19_83	day of JULY			
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**Sherrod Brown** 

Secretary of State

F0292-6936

#### ARTICLES OF INCORPORATION

OF .

#### ETHAN FOUNDRIES COMPANY

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AF UT

By UT

Date 7-26-83

\* \* \* \* \*

The undersigned, a citizen of the United States, desiring to form a corporation, FOR PROFIT, does hereby CERTIFY:

#### ARTICLE I

The name of the corporation is Ethan Foundries Company.

#### ARTICLE II

The principal office of the corporation shall be located in Cleveland, Cuyahoga County, Ohio.

#### ARTICLE III

The purpose or purposes for which, or for any of which, it is formed are to enter into, promote or conduct any other kind of business, contract or undertaking permitted to corporations for profit organized under the General Corporation Laws of the State of Ohio, to engage in any lawful act or activity for which corporations may be formed under Sections 1701.01 to 1701.98, inclusive, of the Revised Code of Ohio, and, in connection therewith, to exercise all express and incidental powers normally permitted such corporations.

#### ARTICLE IV

The authorized number of shares of capital stock of the corporation shall consist of Seven Hundred Fifty (750) shares, all of which shall be common shares, without par value.

#### ARTICLE V

The amount of stated capital with which the corporation will begin business is at least Five Hundred Dollars (\$500.00).

#### ARTICLE VI

The corporation may purchase, from time to time, and to the extent permitted by the laws of Ohio, shares of any class of stock issued by it. Such purchases may be made either in the open market or at private or public sale, and in such manner and amounts, from such holder or holders of outstanding shares of the corporation and at such prices as the Board of Directors of the Corporation shall from time to time determine, and the Board of Directors is hereby empowered to authorize such purchases from time to time without any vote of the holders of any class of shares now or hereafter authorized and outstanding at the time of any such purchase.

#### ARTICLE VII

Notwithstanding any provision of the laws of the State of Ohio now or hereafter in force requiring, for any purpose, the vote of the holders of shares entitling them to exercise two-thirds or any other proportion (but less than all) of the voting power of the Corporation or of any class or classes of shares thereof, such action (unless otherwise expressly prohibited by statute) may be taken by vote of the holders of shares entitling them to exercise a majority of the voting power of the Corporation or of such class or classes.

#### ARTICLE VIII

The preemptive right to purchase additional shares or any other securities of the Corporation is expressly denied to all share-holders of all classes.

### F0292-6938

IN WITNESS WHEREOF, I have subscribed my name to these Articles of Incorporation on July 25, 1983.

Lisa B. Reffner (Incorporator)

132T5-H3

#### ETHAN FOUNDRIES COMPANY

#### ORIGINAL APPOINTMENT OF STATUTORY AGENT

\* \* \* \* \* \* \* \* \*

The undersigned, being the incorporator of Ethan Foundries Company, under the provisions of Section 1701.07 of the Ohio Revised Code, does hereby appoint as Statutory Agent, Gregg L. Foster, a natural person resident of the State of Ohio, upon whom any process, notice, or demand required or permitted by statute to be served upon the corporation may be served.

The complete business address of said Agent is 1390 Glenbrook Lane, in the city of Westlake, in Cuyahoga County, Ohio, Zip Code 44145.

IN WITNESS WHEREOF, the undersigned incorporator of Ethan Foundries Company, has executed this Original Appointment of Statutory Agent on July 25, 1983.

Lisa B. Reffner
(Incorporator)

132T5-H4



Number - 617389

Secretary of State Receipt No. 42200

6517-1773 0359 Received of CALFEE, HALTER 3 GRISWOLD Οî or filed by The sum of \$\_\_\_\_\_\_ 45.07 for filing \_\_\_ ELYRIA FOUNDRY COMPANY FORMERLY ETHAN FOUNDRIES COMPANY 10.00 MIS 42200 Returned to: CALFEE . HALTER & GRISWOLD ATT: C. BRAUNSCHWEIG. 1800 SOCIETY SLDG. . 45.00 CLEVELAND. OH. 44114-2688 otal Fee: \$\_\_\_

ELYRIA FOUNDRY COMPANY FORMERLY ETHAN FOUNDRIES COMPANY



**Department of State** 

### The State of Ohio

### **Sherrod Brown**

Secretary of State

617389

# **Example 2** Certificate

ELYRIA FOUNDRY COMPANY FORMERLY ETHAN FOUNDRIES COMPANY  Recorded on Roll	United States of America State of Ohio Office of the Secretary of State			the in	cords or incorpor	ation and infoculations is	
			the Records of Incorporation and Miscellaneous Filings.				
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Sherrod Brown
Secretary of State

A.D. 19 88.

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CERTIFICATE OF AMENDMENT
TO THE
ARTICLES OF INCORPORATION

OF

#### ETHAN FOUNDRIES COMPANY

Charter No. 617389

Gregg L. Foster, Chairman, and Philip M. Dawson, Secretary, of Ethan Foundries Company, an Ohio corporation (the "Corporation"), do hereby certify that all the shareholders of the Corporation, by unanimous written affirmative vote and approval without a meeting as of June 23, 1986, approved and adopted the following resolutions:

RESOLVED: That Article I of the Articles of Incorporation of Ethan Foundries Company be amended to read in its entirety as follows:

#### "ARTICLE I

The name of the corporation is Elyria Foundry Company."

RESOLVED FURTHER: That the Chairman and the Secretary of Ethan Foundries Company be and they are hereby authorized and directed to execute and file in the office of the Secretary of State of Ohio an appropriate Certificate of Amendment in order to carry out the intent and purposes of the preceding resolution and render effective said Amendment to the Articles of Incorporation.

IN WITNESS WHEREOF, said Gregg L. Foster, Chairman and Philip M. Dawson, Secretary, acting for and on behalf of the Corporation, have hereunto subscribed their names this 23rd day of June, 1986.

ETHAN FOUNDRIES COMPANY

By

egg K. Foster, Chairman

Philip M. Dawson, Secretary

GAUL 1-1778

C-123, August, 1983
Prescribed by **Sherrod Brown**Secreary of State

## CONSENT FOR USE OF SIMILAR NAME

On the	31st day of December	又	86
the BOARD OF DIREC	CTORS (TRUSTEES) OFElyria Found	dry Company	
and bottle of birthe		orporation giving Consent)	
	(Charter or License No.)	261924	
pased the following resol	ution:		
RESOLVED, that _	Elyria Foundry Company		
	(Name of Corporation giving	Consent)	
gives it consent to	Ethan Foundries Company		
to use the name	Elyria Foundry Company	·	
Date <u>December 3</u>	Signed Secretary Conse	or Assistant Scretary of enting Corporation	<del></del> ;

NOTE: This document MUST BE SIGNED by the SECRETARY or ASSISTANT SECRETARY of the consenting corporation, pursuant to Section 1701.05(A) of the Ohio Revised Code.